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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,838	01/16/2002	Michael H. Gurin		1328

7590

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EXAMINER

LIU, JONATHAN

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/050,838

Applicant(s)

GURIN, MICHAEL H.

Examiner

Jonathan Liou

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3,6,10,13-16 and 20-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,6,10,13-16 and 20-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

This Office action is in response to applicant's paper filed 3/16/2006. Claims 1, 3, 6, 10, 13-16, 20-31 as amended are currently pending in the application. Applicant has amended claims 1, 3, 6, 10, 13-16, 20, cancelled claims 2, 4-5, 7-9, 11-12, 17-19, and added new claims 21-31.

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the wireless end-user communication device with two separate transceivers and a unique access number," must be shown or the feature(s) canceled from the claim(s). "transceivers with both a short-range wireless transceiver and long-range wireless transceiver" must be shown or the feature(s) canceled from the claim(s). "communication management system" also not shown in the drawing. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

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consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 3 is objected to because of the following informalities: the word "optionally" are improper because it gives the rest limitation below optionally could simply being ignore and limited patentable weight would be considered. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 3, 6, 10, 13-16, 20-31 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility. The system disclosed in the claim should demonstrate or show the tangible result. According to MPEP 2106 II.A, the claimed invention as a whole must accomplish a practical application. That is, it must produce a "useful concrete and tangible result." State Street, 149 F.3d at 1373, 47 USPQ2d at 1601-02. While applicant describes the system in claims 1, 3, 6, 10, 13-16, 20-31, the tangible result has not been shown in the claim language. For example, claim 1 describes a

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communication system comprising: (A), (B), (C); however, none of systems in (A), (B), (C) produce any result. Applicant should not merely describing the system based on delineation, the result from the delineation need to be shown in order to demonstrate the utility of claimed invention. From claims 3, 6, 10, 13-16, 20, the further limitations do not show to produce tangible result. Therefore, claims 1, 3, 6, 10, 13-16, 20 are rejected under U.S.C. 101. Regarding claim 21, although applicant describes "device having means to determine a precise geographic location," applicant further only depicts selection of functionalities without even showing how selection functions would produce the result of a precise geographic location. Moreover, examiner also could not find any dependent claims 22-31, which show the tangible result has been created. Therefore, claims 21-31 are rejected under U.S.C. 101.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, "a communication management system comprised of at least one algorithm initiated after establishing the initial communications link or communication device address within one communication session selected from the group consisting of algorithms for dynamic communications routing, communication

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device address switching between short-range and long-range transceivers, minimizing switching time between at least one selected from the group of communication link, address, or routing, minimizing switching frequency between communications link, minimizing customer cost, or combinations thereof" recited in the claim 1 are vague and indefinite. Applicant used Markush group of claim language; however, examiner could not clearly distinguish what limitations included in the group that could be selected from. The grouping is vague and indefinite to be distinguished what limitations are included in the group. In addition, minimizing switching time between at least one selected from the group of communication link, address, or routing" are not clear to examiner. Examiner could not understand what applicant means by "minimizing switching time between routing," "minimizing switching time between address," or "minimizing switching frequency/time between communications link" What routing, address, or communications link are in between need to be specified.

Regarding claims 3, 6, 10, 13-16, 20, these claims are dependent of claim 1; thus, the same rejection as applied to claim 1 is applied to claims 3, 6, 10, 13-16, 20.

Regarding claim 21, examiner could not understand "having dynamically varying functionality of said end-user communication device as a function of at least one selected from" What is having dynamically varying functionality. Do applicant refer to algorithm, database, or a communication management system? Moreover, claim 21 used group within subgroup render claim indefinite. While algorithm is selected, does that algorithm having dynamically varying functionality? While database is selected,

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does that algorithm having dynamically varying functionality? What happen would the combination of algorithm and database are selected.

Regarding claims 22-31, these claims are dependent of claim 21; thus, the same rejection as applied to claim 21 is applied to claims 22-31.

### ***Conclusion***

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Liou whose telephone number is 571-272-8136. The examiner can normally be reached on 8:00AM - 5:00PM Mon-Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jonathan Liou

5/19/2006

  
RICKY Q. NGO  
SUPERVISORY PATENT EXAMINER